

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
DOCKET NO. 3:12-cr-00013-MOC

**UNITED STATES OF AMERICA,**

Vs.

**TIMOTHY JAMES DONAHUE,**

Defendant.

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ORDER

**THIS MATTER** is before the Court on defendant Timothy Donahue’s letter to the Court received September 11, 2018 (#328). In that letter, defendant asks the Court to clarify its decision not to apply the four-level leadership role enhancement to his criminal sentence. Defendant asks the Court “to send a factual adjudication notifying [his] UNIT TEAM specifically Mrs. Reyes that the leadership role did NOT apply in the above mentioned case number,” and states that such clarification is “essential in [his] desire to reach a lesser security level.”

Review of the sentencing materials in this case reveals that, although the final Presentence Investigation Report (“PSR”) (#223) recommended a four-level enhancement for defendant’s role in the offense as “an organizer or leader of criminal activity,” the Court ultimately determined that the leadership role adjustment did not apply and reduced defendant’s offense level accordingly.

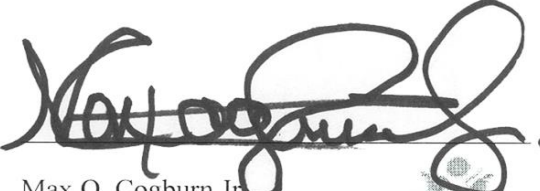
The Transcript of Sentencing Hearing (#292) shows on page 48 that the Court stated: “I am going to find there is not sufficient evidence for the leadership role. I’m going to reduce that by four levels. That’s going to find it at a criminal history category of -- offense level 36, criminal history category I. Guideline range is 188 to 235.” Page 54 shows the Court concluded: “I’m finding that the leadership role doesn’t apply because I don’t believe it applied.”

Likewise, the Statement of Reasons (#254) indicates the Court adopted the PSR with the following changes: “Court determines leadership role does not apply, reduces OL to 36.”

**ORDER**

**IT IS, THEREFORE, ORDERED** that defendant’s letter (#328), to the extent it requests confirmation that a leadership role enhancement was not applied to defendant’s sentence, the Court hereby **CONFIRMS** such request. Inasmuch as the custody-level determination is left to the Bureau of Prisons, nothing further should be inferred by entry of this Order other than to provide defendant with the requested clarification. As to defendant’s request that this Court send his counselor this Order, that request is **DENIED** as such person is not a party and, if desired, can access the Court’s docket.

Signed: September 13, 2018



Max O. Cogburn Jr.  
United States District Judge